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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,338	02/20/2002	Dirk Trossen	005288.00031	7948

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EXAMINER	
PHU, SANH D	

ART UNIT	PAPER NUMBER
2682	

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/079,338	TROSSEN ET AL.	
	Examiner	Art Unit	
	Sanh D Phu	2682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 December 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32* is/are pending in the application.

4a) Of the above claim(s) *1-5,12-22 and 32* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *6-11 and 23-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group II (claims 6-11, 23-31) in the reply filed on 12/2/2004 is acknowledged.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 23-25, 27 and 30 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 43 of copending Application No. 10/079,373. Although the

conflicting claims are not identical, they are not patentably distinct from each other because claim 43 of copending Application No. 10/079,373 encompasses limitations recited in claims 23-25, 27 and 30.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claims 6-8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 43 of copending Application No. 10/079,373 in view of Wall et al (2003/0037160). Claim 43 of the copending Application No. 10/079,373 encompasses limitations recited in claims 6-8 except that claim 43 does not disclose that a processor "processor" which is coupled to a memory as claimed in claim 6. Wall et al using a memory (905, 906) to be coupled to a processor (904) for storing from and retrieving data (see figure 9, and section [0063].

Therefore, It would have been obvious for a person skilled in the art to implement a memory to be coupled with claim 43's processor, as taught by Wall et al, so that the memory could be used for storing/retrieving data to/from the processor during the processor processes the data.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 10, 11, 28 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01.

Claim 28 omits step(s) showing interrelationship between step "(c) displaying an actual level corresponds to a number of layers that is currently supported over a wireless channel" with step "(a) displaying a list of multicast services and receiving a first selection for a user" and/or step "(b) receiving a second selection from the user and displaying a desired level of multicast service in response to step (a), wherein the desired level of service corresponding to a first multicast group address".

Claim 28 omits step(s) showing interrelationship between "a first selection" with "a list of multicast services"; between "desired level of multicast

service " with "a second selection"; and between "actual level of multicast service" with "a first selection", "a list of multicast services", "desired level of multicast service" and/or "a second selection".

Claim 29 omits step(s) showing interrelationship between "third selection" with "minimum level of multicast service".

Claim 10 is rejected with similar reasons set forth for claim 28.

Claim 11 is rejected with similar reasons set forth for claim 29.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 6, 9 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Wall et al (2003/0037160).

Regarding to claims 6 and 23, see figures 1 and 2 and col. 4, line 1 to col. 6, line 12, Wall et al discloses a wireless terminal (see figure 9) used in a multicast system wherein the wireless terminal comprises a wireless interface (902) (see also sections [0059, 0063]); a memory (905, 906); a processor (904) that connects to the wireless interface in order to communicate over a wireless channel and that connects to the memory, the processor configured to perform steps:

(800) of sending a request that the wireless terminal wishes to join to at least one requested layer corresponding to a multicast group of a multicast service (see figure 8, and section [0013]; and

(810) of sending bandwidth requirements "personal bandwidth preference message" for the at least one requested layer (see figure 8, and section [0115]).

Regarding to claim 9, Wall et al discloses step of sending a notification "disconnected message" that the wireless terminal desires to be disconnected from a multicast session (see Wall et al, see [0081]).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 7-8, 24-27, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wall et al in view of Segura et al (6,360,076).

Regarding to claims 7 and 24, Wall et al does not disclose step of sending signal quality information about a received signal over the wireless channel.

Segura et al discloses step (35) (see figure 3) of sending signal quality information "tq" about a received signal over the wireless channel (see Segura et al, col. 5, line 61 to col. 6, line 51).

There fore, it would have been obvious for one skilled in the art to implement the method to improve the signal quality by sending information to base station, as taught by Segura et al, so that the base station is able to transmit better signal to the wireless terminal.

Regarding to claim 26, Wall et al discloses step of sending a notification "disconnected message" that the wireless terminal desires to be disconnected from a multicast session (see Wall et al, see [0081]).

Regarding to claims 8 and 27 Wall et al in view of Segura et al does not disclose that the signal quality information comprises at least one signal to noise measurement corresponding to the received signal over the wireless channel.

Segura et al in view of Wall et al discloses that the signal quality information comprises signal strength and bit error rate corresponding to the received signal over the wireless channel (see Segura et al, col. 5, lines 42-44).

Using signal to noise ratios, signal strengths and/or bit error rates corresponding to a received signal over a wireless channel to indicate the

transmission quality of the wireless channel is well-known in the art, and the examiner takes Official Notice.

Therefore, it would have been obvious for a person skilled in the art to implement Segura et al invention in view of Wall et al in such a way that the signal quality information would comprise measured signal to noise corresponding to the received signal over the wireless channel so that the measured signal to noise would be used to indicate the transmission quality of the wireless channel, without affecting the overall system performance.

-Regarding to claim 25, Segura et al discloses step (36) (see figure 3) of receiving at least one layer associated with the multicast session in accordance with the signal quality information (see col. 6, lines 40-65).

-Claim 30 is rejected with similar reasons set forth for claims 6 and 8.

-Claim 31 is rejected with similar reasons set forth for claim 26.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanh D Phu whose telephone number is (703) 305-8635. The examiner can normally be reached on 8:00-16:30.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-8635.

Sanh D. Phu
Examiner
Art Unit 2682

SP

VIVIAN CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600